

low-income children below the age of compulsory school attendance, ensure that such services comply with the academic achievement standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a));

“(H) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals;

“(I) inform eligible schools of the local educational agency’s authority to obtain waivers on the school’s behalf under title VIII of this Act, and if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999; and

“(J) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families.

“(2) **SPECIAL RULE.**—In carrying out subparagraph (G) of paragraph (1), the Secretary—

“(A) shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

“(B) shall disseminate to local educational agencies the Head Start academic achievement standards as in effect under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

“(3) **INAPPLICABILITY.**—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

“(d) **PLAN DEVELOPMENT AND DURATION.**—

“(1) **CONSULTATION.**—Each local educational agency plan shall be developed in consultation with teachers, principals, administrators (including administrators of programs described in other parts of this title), and other appropriate school personnel, and with parents of children in schools served under this part.

“(2) **DURATION.**—Each such plan shall be submitted for the first year for which this part is in effect following the date of the enactment of the No Child Left Behind Act of 2001 and shall remain in effect for the duration of the agency’s participation under this part.

“(3) **REVIEW.**—Each local educational agency shall periodically review, and as necessary, revise its plan.

“(e) **STATE APPROVAL.**—

“(1) **IN GENERAL.**—Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

“(2) **APPROVAL.**—The State educational agency shall approve a local educational agency’s plan only if the State educational agency determines that the local educational agency’s plan—

“(A) enables schools served under this part to substantially help children served under this part meet the academic standards expected of all children described in section 1111(b)(1); and

“(B) meets the requirements of this section.

“(f) **PROGRAM RESPONSIBILITY.**—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

“(g) **PARENTAL NOTIFICATION AND CONSENT FOR ENGLISH LANGUAGE INSTRUCTION.**—

“(1) **NOTIFICATION.**—If a local educational agency uses funds under this part to provide English language instruction to limited English proficient children, the agency shall inform a parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this part of—

“(A) the reasons for the identification of the child as being in need of English language instruction;

“(B) the child’s level of English proficiency, how such level was assessed, and the status of the child’s academic achievement;

“(C) how the English language instruction program will specifically help the child acquire English and meet age-appropriate academic standards for grade promotion and graduation;

“(D) what the specific exit requirements are for the program;

“(E) the expected rate of transition from the program into a classroom that is not tailored for limited English proficient children; and

“(F) the expected rate of graduation from high school for students in the program if funds under this part are used for children in secondary schools.

“(2) **CONSENT.**—

“(A) **AGENCY REQUIREMENTS.**—

“(i) **INFORMED CONSENT.**—For a child who has been identified as limited English proficient prior to the beginning of a school year, each local educational agency that receives funds under this part shall make a reasonable and substantial effort to obtain informed parental consent prior to the placement of a child in an English language instruction program for limited English proficient children funded under this part if the program does not include classes which exclusively or almost exclusively use the English language in instruction.

“(ii) **WRITTEN CONSENT NOT OBTAINED.**—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and the manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

“(iii) **PROOF OF EFFORT.**—Notice, in an understandable form, of specific efforts made to obtain written consent and a copy of the written record required in clause (ii) shall be mailed or delivered in writing to a parent, parents, or guardian of a child prior to placing the child in a program described in clause (i) and shall include a final request for parental consent for such services. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

“(iv) **SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.**—For those children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts made to obtain such consent prior to placing the child in a program described in clause (i). After such documentation has been made, the local educational agency shall provide appropriate educational services to such child. The proof of documentation shall be mailed or delivered in writing to a parent or parents of the child in a timely manner and shall include information on how to have their child immediately removed from the program upon their request. Nothing in this clause shall be construed as exempting a local educational agency from complying with the notification requirements of subsection (g)(1) and the consent requirements of this paragraph.

“(3) **PARENTAL RIGHTS.**—A parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this part shall—

“(A) select among methods of instruction, if more than one method is offered in the program; and

“(B) have the right to have their child immediately removed from the program upon their request.

“(4) **RECEIPT OF INFORMATION.**—A parent or the parents of a limited English proficient child who is identified for participation in an English

language instruction program for limited English proficient children assisted under this part shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—

“(A) timely information about English language instruction programs for limited English proficient children assisted under this part;

“(B) if a parent or parents of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from the parent or parents; and

“(C) procedural information for removing a child from a program for limited English proficient children.

“(5) **BASIS FOR ADMISSION OR EXCLUSION.**—Students shall not be admitted to, or excluded from, any federally-assisted education program on the basis of a surname or language-minority status.

“SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

“(a) **DETERMINATION.**—

“(1) **IN GENERAL.**—A local educational agency shall use funds received under this part only in eligible school attendance areas.

“(2) **ELIGIBLE SCHOOL ATTENDANCE AREAS.**—For the purposes of this part—

“(A) the term ‘school attendance area’ means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

“(B) the term ‘eligible school attendance area’ means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

“(3) **LOCAL EDUCATIONAL AGENCY DISCRETION.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (2), a local educational agency may—

“(i) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

“(ii) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

“(iii) designate and serve a school attendance area or school that is not eligible under subsection (b), but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

“(iv) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

“(I) the school meets the comparability requirements of section 1120A(c);

“(II) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

“(III) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

“(B) **SPECIAL RULE.**—Notwithstanding subparagraph (A)(iv), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

“(b) **RANKING ORDER.**—If funds allocated in accordance with subsection (f) are insufficient to serve all eligible school attendance areas, a local educational agency—

“(1) shall annually rank from highest to lowest according to the percentage of children from low-income families in each agency’s eligible school attendance areas in the following order—